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RAILROADS—INJURY TO PERSON ON TRACK—CONTRIBUTORY NEGLIGENCE.—*ATCHISON T. & S. F. Ry. Co. v. Schwindt*, 72 PAC. 573 (KAN.).—*Held*, that where a railroad company has its tracks in the streets, one who, without the excuse of necessity or convenience, walks on them and is injured by the negligence, but not wantonness, of the company is precluded from recovery.

Where a railroad owns its right of way, one who walks upon it is a trespasser, and can hold the company liable only for injuries due to its wantonness. *Johnson v. B. & M. R. R.*, 125 Mass. 75; *Wood, R. R's.*, sec. 320. But a railroad built in a highway has no exclusive control therein. *Middlesex R. Co. v. Wakefield*, 103 Mass. 261; *Elliott, Roads & Streets*, 591. The rights of the public are not impaired. *Railway Co. v. State*, 87 Tenn. 746. The company is liable for injuries due to its negligence; *Brooks v. Lincoln St. Ry. Co.*, 22 Nev. 816; unless contributory negligence intervenes. *McMahon v. No. Cent. Ry. Co.*, 39 Md. 438. The exception in the case of persons walking on the track rests on a presumption of contributory negligence. This presumption is usually held to be rebuttable; *Jones v. Union Ry. Co.*, 18 N. Y. App., Div. 267; *Byrne v. Boadle*, 2 H. & C. 722; and should be used with care. *Thomas, Neg.*, 576.

TRADE—UNFAIR COMPETITION—DECEPTION OF PUBLIC.—*HOPKINS AMUSEMENT CO. v. FROHMAN*, 67 N. E. 391 (ILL.).—Frohman was plaintiff in court below and had contracted with the authors of the drama, "Sherlock Holmes," for the exclusive right of producing same. He had placed it before the public in the principal cities of the United States at large expense. Hopkins Amusement Co. advertised and threatened to produce a play known as "Sherlock Holmes, Detective." *Held*, injunction was justified on the ground of deception of the public.

The ultimate benefit of a trade name results to the originator of the name and equity provides a remedy to prevent his being deprived of it by unfair competition. *Drake Medicine Co. v. Glessner*, 67 N. E. (Ohio) 722; XII *Yale Law Jour.* 49. The court, however, in this instance granted an injunction for the purpose of preventing an imposition on the public irrespective of whether Frohman was entitled to a trade-mark in the name.